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April 6, 1976

APR 0 9 1976

Ms. Linda M. Clifford
Assistant Attorney General
The State of Wisconsin
Department of Justice
Madison, WI 53702

Re: State vs. James Lehrer
Case No. 145-072

Dear Ms. Clifford:

Your letter of March 24, 1976, has been reviewed with James Lehrer.

I am enclosing an extra copy of this letter and ask that you forward it to Chuck LaVque of the DNR.

Quite frankly, previous to your letter, Mr. Lehrer and I had discussed a forfeiture stipulation, from approximately $500 to $1,000.00.

The Order was entered 8/7/74. Our conference, wherein we arrived at the memorandum of understanding, was 8/12/75, approximately one year later.

While some of the alleged non-compliance factors of the Order may have been in violation, they are not of the pollution type etc. For instance, the incinerator and wood waste and salvageable material areas were old land fill sites, and Mr. Lehrer did not have enough man power or time to cover over the old incinerator ravine areas, and the market for salvageable metal materials was prohibitive at the time. At our conference of 8/12/75, the sandwich method of covering was worked out, to the agreement of all parties. Due to the type of waste, being from the County shredder and mill sludge etc., it is apparent that the DNR agreed that daily coverage under a general license was not appropriate. Therefore, it would be similar under the order of 8/7/74. Also, the Department was aware that Mr. Lehrer was in the process of preparing engineering studies and engineering plans, being submitted to the DNR, and parts of the Order or alleged violations were incorporated therein.

Linda, I would like to point out an additional fact to you and the DNR. The Outagamie County shredder came into existence, and the County had no land fill site to dispose of the shredded material. While Mr. Lehrer may have received a pecuniary profit for a period of time, he also gave an additional service to the County. Secondly, all parties would agree that waste disposal is a necessity. I have made

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you aware of the fact that Mr. Lehrer is involved in a private nuisance suit with a neighbor to the North of the present land fill site. This is scheduled for trial in June, 1976. The basis of the nuisance is one of the screening requirements, being the berm. There are other neighbors on this same street that were part of the petitioners to the DNR, and the City of Kaukauna, reference the ravine area being filled in, the berm, and general waste disposal as reducing property values. Mr. Lehrer is in the untenuous position of not being able to settle this first suit, as each neighbor would thereafter commence suit. If these neighbors now find that Mr. Lehrer pays a high forfeiture to the DNR and State, even though inadmissible as evidence, it will be a factor bringing forth other law suits.

I would also like to point out that we met with you on 8/12/75 and entered into the memorandum of understanding. We have also produced the engineering studies necessary and have brought the order to full compliance. This should be a mitigating factor in Mr. Lehrer's favor.

I would have no objection to meeting with you and Chuck LaVque to discuss the forfeiture. However, I did want to put our position into writing, and ask that serious consideration be given to reduction of the forfeiture. I would strongly urge Mr. Lehrer to pay a $750.00 forfeiture.

I am certain that Mr. Lehrer will not violate any order of the DNR in the future, based upon the pressure of this law suit, the private nuisance law suits and the fact that he is incurring burdensome legal fees in defense of this landfill operations.

After you have discussed this matter with Chuck LaVque, I would appreciate a call so that we may further determine negotiations etc.

Very truly yours,

Charles J. Hartzheim

CJH/lts

cc: Mr. Chuck LaVque